



Social Media: Guidelines for School Administrators

A lesson in doing the right thing for students and your staff.

Social media tools like Facebook, Myspace, Instagram, Google+ and Flickr are potentially exciting learning and teaching tools that can help teachers and students make connections to ideas, skills and concepts in a 21st-century learning environment. However, social media are getting a bad rap in education. Some students use the tools in ways that pit their First Amendment rights against their responsibilities as students in brick-and-mortar schools.

In 2006, the American Civil Liberties Union filed suit against the Hermitage School District in Pennsylvania after the district suspended student Justin Layshock for creating an unflattering online parody of his principal. In 2007, a federal judge determined that the suspension was unconstitutional, and in 2010, a three-judge panel of the Third Circuit Court of Appeals ruled that the district violated the student's First Amendment rights.

Clearly, schools must consider the rights of students to freedom of expression. Teachers mistakenly think they too have carte blanche First Amendment rights when it comes to their use of the Internet and social media. That is not the case. Teacher speech is more likely to be protected if it's about matters of public interest, but there is a nexus between teachers' private speech and their employment at school. Private speech should not unduly disrupt school activities.

Michael Simpson, NEA assistant general counsel who specializes in the First Amendment, writes in "Social Networking Nightmares: Cyberspeak No Evil," "First, let's debunk the free speech myth: Many teachers believe they have the absolute First Amendment right to post anything they want on social networking sites, including party pix and diatribes about the



boss. After all, they're on their own time and using their own resources."

The courts have determined otherwise. Unfortunately, many teachers have been dismissed because of inappropriate posts or pictures on Myspace and Facebook. A high school English teacher was suspended for blogging about comments she wanted to make on student report cards. Some comments included "Nowhere near as good as her sibling. Are you sure they're related?" and "Weirdest kid I've ever met." Unfortunately for her, students and parents shared her blog on Facebook and Twitter, causing a stir that led to her suspension.

Probationary teachers can be dismissed without cause, and ill-conceived comments on social networks have ruined nascent careers. The landmark *Pickering v. Board of Education* case established that probationary teachers can be fired without violating their First Amendment rights even if they post typical silly comments about sex and booze that many young people post on Facebook.

Young teachers have grown up in the cyber age and often do not recognize the boundaries between work and play that their more mature peers observed. Boundaries are more easily violated with social networking technology. What was once private is now very public.

Protection from Predators

There are other boundaries that must not be crossed. Schools have a fundamental right to protect students from predators. When those predators are school staff who use texting and private conversations on sites like Facebook to bring vulnerable students into their confidence, school leaders must take action.

Schools need to provide training to their employees about social media for professional and private use. This is especially important for new employees who have grown up with social media and who work directly with students. Schools must devise a policy first to guide this training. While grounding practice in policy makes sense, however, developing a policy is fraught with potential obstacles.

NYC's New Policy

From January to November 2011, the New York City Department of Education recorded 69 cases of inappropriate teacher-student behavior, much of it initiated via social media. In response, the New York DOE released its first social media policy on May 1, which prohibits the use of social media for private conversations between students and staff, including teachers and classified support staff. The goal is to prevent inappropriate contact between staff and students and to keep social networking relationships professional in nature. Interestingly, this policy does not differentiate between school-based and private social media platforms to conduct school business. Teachers can use private sites like Google+ and Facebook to conduct school business, but if inappropriate contact with students takes place on those sites, disciplinary action can be taken.

The New York policy seeks to set reasonable limits on the technology itself, ►

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as well as teacher behavior in relation to the technology. It's quite possible that the new policy will face legal challenges, as many feel that the Internet and social media should have very few limits.

Trial by Fire in Missouri

In 2011, the state of Missouri tried to prevent all use of social media by school employees. Parents and legislators pointed to the very real threats posed to students by teachers who misuse social networking tools to cultivate inappropriate and illegal relationships with vulnerable students. Parent advocates argued that a teacher would never be allowed to sit alone in a classroom with a single student, and shut the door and close the blinds so that nobody could see them. This is what happens in private and exclusive exchanges between students and teachers on Facebook and other such sites, they argued.

In the spring of 2011, the Missouri legislature passed the Amy Hestir Student Protection Act, which prohibited teachers from establishing, maintaining or using a "non-work-related Internet site which allows exclusive access with a current or former student." Amy Hestir was a 12-year-old student who gained attention when she testified before the Missouri House Education Committee that she had been sexually abused by a junior high school teacher. According to a Student Press Law Center report in the July 2011 article, "Free Speech Concerns Could Sink Missouri's Social Networking Ban for Teachers":

To [state senator Jane] Cunningham, completely blocking private Internet messages between students and teachers, even those relating to schoolwork, is needed. "A lot of sexual relationships start with the most innocent text message: 'How do I do this math problem?' or 'I'm going to be late for practice,'" Cunningham said. To the state senator, this ban is nothing more than a way to avoid parents being "cut out" of student-teacher contact and protect both teachers and students.

While well intentioned, the law took aim at social media tools themselves and appeared to ban the use of any such tool

that allows a private conversation between a teacher and a student. It was unclear if school-related conversation was allowed. The ACLU and the Missouri State Teachers Association filed suit to block the law, claiming that it violated teachers' First Amendment rights. An injunction was filed, and a judge ruled that the breadth of the law had a "chilling effect" on the free speech of teachers.

It failed to pass constitutional muster on two counts. First, it was broad, as it prohibited a teacher from using any Web site that would allow educators to contact students privately. In addition, it appeared to ban social networking between teachers and current and former students but didn't make clear what this meant. The ACLU attorney in the case, Tony Roth, argued that the bill silenced a lot more speech than was required to attack the problem.

The New York DOE released its first social media policy on May 1, 2012.

Ultimately, the law was repealed, and the legislature ordered individual school districts to develop their own policy for social media by March 2012. Many are using a sample policy developed by the Missouri School Boards Association. This policy does not ban the technology specifically, but establishes that teachers and school staff must observe appropriate boundaries with students. The focus is on teacher behavior, and the policy provides examples of behaviors that are not appropriate and that violate professional boundaries with students. For example: "Staff members are expected to maintain courteous and professional relationships with students ... and provide for ... the maintenance of physical and emotional boundaries with students ..."

Toward that end, the sample policy says that staff members may not "knowingly allow students access to the staff

member's personal social networking website or webpage that discusses or portrays sex, nudity, alcohol or drug use or other behaviors associated with the staff member's private life that would be inappropriate to discuss with a student at school."

Through a trial by fire, guidelines in Missouri now seem to strike a more reasonable balance between teachers' rights to free speech, the protection of students, and the use of social media as a learning tool that is viable for bona fide school business. However, the Missouri State Teachers Association has a competing policy, so the matter is still unresolved.

Developing a Solid Foundation

In developing a policy, school leaders should answer the following questions:

- How can schools clearly define legitimate school business that can be conducted between teachers and students on school-based sites and social media?
- What are appropriate physical and emotional boundaries that staff should observe with students?
- How can staff avoid misusing social media in the conduct of their professional interaction with students?
- How can staff keep their private speech separate from their interactions with students on private and school-based sites, including texting and cell phones?
- How can educators avoid putting a chilling effect on the use of social media as a learning and communication tool?

Electronic communication with students should always be TAPed:

Transparent—maintain openness, visibility and accountability

Accessible—consider all electronic communication to be a matter of record

Professional—use correct grammar and tone, choose appropriate subject matter and choose words that are courteous

As the NEA's Simpson puts it, "If you're not sure, show your Facebook page to your mom. If she's got any concerns or problems, then so do you." DA

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